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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,840	08/18/2005	Ruisheng Liang	3457.2.9 NP	1302
48309	7590	02/08/2007		
ADVANTIA LAW GROUP 9035 SOUTH 1300 EAST SUITE 200 SANDY, UT 84094			EXAMINER MORAN, KATHERINE M	
			ART UNIT	PAPER NUMBER
			3765	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/08/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/521,840	Applicant(s) LIANG, RUI SHENG	
	Examiner Katherine Moran	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/21/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites "high rigid PC". It is unclear what "PC" means. The specification does not define PC. Claims 2 and 3 recite 40~50 T/cm². What value does "T" represent?

Claim Objections

3. Claims 2 and 3 are objected to because of the following informalities: line 2: there is insufficient antecedent basis for: the PC lenses; claim 2, line 5 and claim 3, line 2: delete "bellow" and insert --below--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godoy (U.S. 6,718,560) in view of Shiue (U.S. 2//5/0128426). Godoy discloses the

invention substantially as claimed. Godoy teaches a pair of goggles for swimming, diving or surfing, comprising frame 4, lenses 5 and strap 2, the lenses and frames being moulded integrally by a high rigid PC material. However, Godoy doesn't teach a silica gel material. Shiue teaches that it is known to form a goggle structure from a soft elastic colloid such as silica gel. Therefore, it would have been obvious to form Godoy's goggles with the silica gel material as taught by Shiue, to provide a soft and pliable material against a wearer's face. Regarding claims 2 and 3, these claims are product by process claims. As discussed in MPEP 2113, when the product by process claim is limited by and defined by the process, determination of patentability is based on the product itself. The patentability of the product does not depend on its method of production. If the product in the product by process claim is the same or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. Therefore, the claimed structure is considered when assessing patentability. Once a product appears to be substantially identical and a 35 U.S.C. 103 rejection is made, the burden shifts to the applicant to show an unobvious difference. Since the modified goggle apparatus of Godoy meets the claimed structural recitations, Godoy is deemed to meet the claim limitations of claims 2 and 3.

Conclusion

6. The prior art made of record on the attached PTO-892, and not relied upon, is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (571) 272-4990. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch, may be reached at (571) 272-4996. The official and after final fax number for the organization where this application is assigned is (571) 273-8300. General information regarding this application may be obtained by contacting the Group Receptionist at (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kmm

February 1, 2007

A handwritten signature in black ink, appearing to read 'K Moran', with a long horizontal flourish extending to the right.

Katherine Moran

Primary Examiner, AU 3765